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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,240	10/27/2003	Jason D. Brooks	0734 US	4330
802	7590	09/27/2007		
PATENTTM.US			EXAMINER	
P. O. BOX 82788			RIVAS, SALVADOR E	
PORTLAND, OR 97282-0788				
			ART UNIT	PAPER NUMBER
			2616	
			MAIL DATE	DELIVERY MODE
			09/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/695,240

Applicant(s)

BROOKS, JASON D.

Examiner

Salvador E. Rivas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/06/2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Action is in response to Applicant's amendments filed on July 23, 2007.

**Claims 1-4** are now pending in the present application. **This Action is made Final.**

#### *Information Disclosure Statement*

2. The information disclosure statement submitted on September 06, 2007 been considered by the Examiner and made of record in the application file.

#### *Drawings*

3. The drawings were received on July 23, 2007. These drawings are acceptable.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 and 3** are rejected under 35 U.S.C. 102(e) as being anticipated by Haneda (US Patent Application Publication # 2002/0167914 A1).

Regarding **claims 1 and 3**, Haneda teaches a test instrument operation method for employing the test instrument (read as a node detecting apparatus (Fig. 1 @ 10)) to identify a bridge uplink port in a network, comprising the steps of: connecting the test instrument (read as a node detecting apparatus (Fig. 1 @ 10)) to the network; sending from the test instrument an ICMP ping to all known bridges within said network

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("transmitting an ICMP echo message ... to a plurality of nodes by using a broadcast address of a predetermined subnet", paragraph [0009], Lines 1-4) and thereby causing forwarding data base tables of said bridges to store MAC addresses and interface indices of adjacent bridges (read as a second memory (Fig. 2 @ 110) where the data format of an object file includes "a classification field, an object-name field, a MAC address field, an IP address field, an SNMP information field, a port number field, a stack number field, a VLAN number field and a child-object-name field.", paragraph [0038] Lines 2-6); sending an SNMP query from the test instrument to a selected bridge to retrieve stored contents of a forwarding data base table of said selected bridge ("transmitting a detection signal according to an SNMP protocol to the node based upon the address information stored in the first memory", paragraph [0012], Lines 2-4); and for any interface index retrieved from said selected bridge, having the test instrument (read as a node detecting apparatus (Fig. 1 @ 10)) identify a port associated with said interface index as an uplink port (read as a receiving unit (Fig.2 @ 104)) of an adjacent bridge ("receiving step of receiving, from the interconnecting node, port identifying information for identifying a port of the interconnecting node and node identifying information of a node connected to the port;" paragraph [0014], Lines 1-4).

***Allowable Subject Matter***

5. **Claims 2 and 4** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments, see Page 9 Lines 8-10 states "counting a number of MAC addresses associated with each port of said bridges", filed on July 23,2007, with respect to claims 2 and 4 have been fully considered and are persuasive. The rejections of claims 2 and 4 have been withdrawn.

Applicant's arguments filed July 23, 2007 have been fully considered but they are not persuasive. The Applicant argues, see Page 8 Lines 21 states "no mention of uplink port of an adjacent bridge", filed on July 23,2007, with respect to claims 1 and 3. The examiner respectfully disagrees since the Applicant defines an uplink port as "a switch or bridge port that is connected to another network interconnect device, such as a bridge or a router, and has a Media Access Control (MAC) address of other switches or bridges beyond the immediate physical layer." in the specification. The examiner interprets the receiving unit (Fig.2 @ 104) as the uplink port.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or early communications from the Examiner should be directed to Salvador E. Rivas whose telephone number is (571) 270-1784. The examiner can normally be reached on Monday-Friday from 7:30AM to 5:00PM.

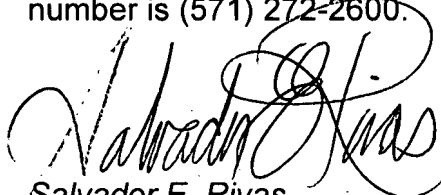
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kenneth N. Vanderpuye can be reached on (571) 272- 3078. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.



Salvador E. Rivas  
S.E.R./ser

September 24, 2007



KENNETH VANDERPUYE  
SUPERVISORY PATENT EXAMINER